

## **REMARKS**

### **OBJECTIONS TO THE FIRST RESPONSE**

The Examiner objected to the subject re-issue application as lacking written consent of all assignees owning an undivided interest in the patent, citing 37 CFR 1.172 and 3.73. Applicant believes that the objection was raised in error as consent of the sole assignee, Stanford Telecommunications, Inc. (dated January 14, 2003), signed by an officer of Stanford Telecommunications, Inc. (Scott Wolfe, Assistant Secretary) was filed with the second response (dated January 16, 2003).

It also appears that the Examiner objects to the content of the ownership submission under 37 CFR 3.73 by indicating that it would be acceptable for a person, other than a recognized officer, to execute such a submission. Applicant respectfully points out that Scott Wolfe, Assistant Secretary of Stanford Telecommunications, Inc., has signed the statement under 37 CFR 3.73, as well as the Consent of Assignee form. MPEP 324 provides that a "secretary," is an officer presumed to have authority to act on behalf of an organization. An "assistant secretary" is an officer that is also presumed to have authority. *See* MPEP 324, pg. 300-19 (8<sup>th</sup> ed., August 2001). Notwithstanding the above, the previously submitted statement under 37 CFR 3.73, and the Consent of Assignee form, both indicate that the person who signed these documents is empowered to sign on behalf of Stanford Telecommunications, Inc., in compliance with 37 CFR 3.73(b)(2)(i). Copies of both the Consent of Assignee and the Statement Under 37 CFR 3.73 (b) are enclosed.

The Examiner objected to the disclosure because of cited informalities with amendments filed with the first Response, citing 37 CFR 1.173(b)(1). Applicant notes that the first Response identified insertion locations for amended text and provided a clean text and a markup copy of the amended text. Applicant submits that the amendments in the first Response, as provided, were compliant with 37 CFR 1.173(b)(1) and as such, submits that they should be entered.

Examiner Appiah objected to the format of the claims as provided with the first Response under 37 CFR 1.173(b)(2). Applicant submits a new list of claims provided herein with a claim history provided in brackets.

The Examiner objected to claims 1-25 as presented in the first Response for lacking a supplemental oath, citing 37 CFR 1.175(b)(1). Applicant submits that it is not necessary to file a supplemental oath for the amendments made to claims 1-25. Claim 13 (the only claim amended) was amended to simply correct a typographical error which is not an “error” under 35 U.S.C. 251 which would require a supplemental oath. See MPEP 1414.01 and 1444. Further, for cancelled claims 26-32 provided in the re-issue application, their cancellation cannot be used to correct any “error” (under 35 U.S.C. 251) in an issued patent and accordingly, the need for a supplemental oath for their cancellation is obviated. Again, see MPEP 1414.01 and 1444.

For new claims 33-38 provided herein, if a supplemental oath is required, Applicant proposes to attempt to secure such a supplemental oath for filing after the Examiner provides a subsequent office letter considering the claims on their merits.

## **NEW CLAIMS**

New claims 33-38 are directed to previously disclosed aspects of operation of a cellular communication system which were not claimed in the original application. An aspect of the new claims is the periodic adjustment of at least one of power, frequency, and timing of transmissions to a base station from the subscriber station. In the specification, exemplary support for the periodic adjustment of power levels of transmissions is found in Figs. 18 and 21 and at column 16, lines 1 through 5; exemplary support for the period adjustment of timing of transmissions is found in Figs. 20 and 17 and at column 16, lines 50 through 53; and exemplary support for the periodic adjustment of timing of transmissions is found in Fig. 19 and at column 17, lines 9 through 13.

## **OTHER MATTERS**

Under the same cover, Applicant submits a Supplemental Information Disclosure Statement providing details of prior art cited during prosecution of a corresponding patent application in the European Patent Office, with payment of the required fee.

Applicant believes that no claim fees or extension fees are required by the filing of this Response. However, the Commissioner is authorized to charge deposit account 02-4060 for any additional fees that may be required. Applicant further petitions for an appropriate extension of time for filing this Amendment, if necessary.

Applicant will provide the original patent or a statement as to loss or inaccessibility of the original patent in due course, subject to any Office Action responsive to this Response.



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CONCLUSION

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The Examiner's rejections having been overcome, Applicant submits that the subject application is in condition for allowance. Should any issues remain unresolved, the Examiner is invited to telephone the undersigned attorney.

Respectfully submitted,

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